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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,521	04/30/2001	David Matheny	10559-380001	5533
20985	7590	08/07/2008		
FISH & RICHARDSON, PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER SWEARINGEN, JEFFREY R	
			ART UNIT 2145	PAPER NUMBER
			MAIL DATE 08/07/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/846,521

Applicant(s)

MATHENY ET AL.

Examiner

Jeffrey R. Swearingen

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16, 18-26 and 31-35 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 16, 18-26 and 31-35 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 4/25/2008 have been fully considered but they are not persuasive.
2. Applicant argues Hemphill fails to disclose *generating a relationship file characterizing relationships among discoverable network devices identified by the two or more discovery agents*. Applicant argues that no agent in Hemphill is a discovery agent. Column 4, lines 8-10 clearly states HMMOs are web agents that provide discovery functions. Column 3, lines 29-43 discloses that the HMMOs provide access to the data of the HMMDs. Providing access is collecting the management data. Furthermore, the claim does not require the data collected to be anything but discovery data, which is inherently provided by a discovery agent. The data converted in Hemphill is SNMP data which is converted to HTML. SNMP is management data, or discovery data. The mere fact that SNMP data is analyzed and presented discloses that a file existed which showed the relationship between various networking devices, otherwise known as *a relationship file characterizing relationships among discoverable network devices identified by the two or more discovery agents*.
3. Applicant argues Hemphill fails to disclose *said discovery data including two or more duplicate data entries, wherein each of the duplicate entries relates to a discoverable network device identified by the two or more discovery agents, and remove(s) all but one of the duplicate data entries from the discovery document*. The collected management data in Hemphill is aggregated and "consolidated into a common form". Hemphill, column 3, line 65 – column 4, line 3. Aggregation and consolidation is *discovery data including two or more duplicate data entries, where all but one of the duplicate data entries are removed*.
4. Applicant argues Hemphill failed to disclose priority values for agents. Hemphill discloses creating various groups to process selected events. A selected event would have a priority.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 16 and 18-26 and 31-35 are rejected under 35 U.S.C. 102(a) as being anticipated by Hemphill et al. (US 6,167,448).

7. In regard to claim 16 and 31, Hemphill disclosed:

receive discovery data collected from a discoverable network device by two or more discovery agents; column 4, lines 6-15

aggregate said discovery data; column 3, line 65 – column 4, line 3

generate a relationship file characterizing relationships among discoverable network devices identified by the two or more discovery agents; column 4, lines 15-17

coalesce the discovery data in a software file comprising a discovery document, said discovery data including two or more duplicate data entries, wherein each of the duplicate entries relates to a discoverable network device identified by the two or more discovery agents; and column 4, lines 45-52

remove all but one of the duplicate data entries from the discovery document. Column 3, line 54 – column 4, line 3

8. In regard to claim 18 and 32, Hemphill disclosed:

the instructions that cause the computer to receive discovery data comprise instructions that cause the computer to call said two or more discovery agents from an agent directory. Column 4, lines 41-45

9. In regard to claim 19 and 33, Hemphill disclosed:

the instructions that cause the computer to aggregate said data comprise instructions that cause the computer to call two or more aggregator agents listed in an agent directory. Column 4, lines 41-45; column 3, line 54 – column 4, line 3

10. In regard to claim 20 and 34, Hemphill disclosed:

the agent directory comprises a plurality of Extensible Markup Language (XML) files. Column 8, line 67

11. In regard to claim 21 and 35, Hemphill disclosed:

the instructions that cause the computer to remove all but one of the duplicate entries comprise instructions that cause the computer to:

identify two or more agents responsible for generating the two or more duplicate data entries, each agent having a priority value; column 4, lines 60-65

compare the priority values of the two or more agents; column 4, lines 60-65

identify a first agent having a highest priority, said first agent responsible for generating a first duplicate data entry in the two or more duplicate data entries; and column 4, lines 60-65; column 3, line 65 – column 4, line 3

remove all but the first duplicate data entry. Column 3, line 65 – column 4, line 3

12. In regard to claim 22, Hemphill disclosed:

the two or more agents are discovery agents. Column 4, lines 41-45

13. In regard to claim 23, Hemphill disclosed:

the two or more agents are aggregator agents. Column 3, line 65 – column 4, line 3; column 4, lines 32-57

14. In regard to claim 24, Hemphill disclosed:

the discovery document is an Extensible Markup Language (XML) file. Column 4, lines 15-17; column 4, lines 45-48; column 8, line 67

15. In regard to claim 25, Hemphill disclosed:

the instructions that cause the computer to receive discovery data comprise instructions that cause the computer to receive discovery data collected from two or more discoverable network devices by said second two or more discovery agents. Column 4, lines 32-57

16. In regard to claim 26, Hemphill disclosed:

store the discovery document in a discovery database; and column 4, lines 45-57
generate a key for each discovered discoverable network device in the discovery document. Column 4, lines 45-57

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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18. Stupek, Jr. et al. US 6,526,442

19. Kekic et al. US 6,664,978

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571)272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jeffrey R. Swearingen
Examiner

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Art Unit 2145

/J. R. S./

Examiner, Art Unit 2145

/Jason D Cardone/

Supervisory Patent Examiner, Art Unit 2145